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THE SITUATION IN BOSNIA AND HERZEGOVINA

Report of the Secretary-General

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I. INTRODUCTION

1. By its resolution 46/242 of 25 August 1992, the General Assembly demanded that all parties to the conflict in Bosnia and Herzegovina immediately stop fighting and find a peaceful solution; condemned the violation of the sovereignty, territorial integrity and political independence of the Republic of Bosnia and Herzegovina as well as the massive violations of human rights and humanitarian law; requested the Secretary-General to report to the Assembly at its forty-seventh session on the implementation of the resolution; and decided to remain seized of the matter and to continue its consideration of the item at its forty-seventh session.

2. The present report is submitted pursuant to the above-mentioned request of the General Assembly. It complements the following recent relevant reports:

(a) Reports on the situation of human rights in the territory of the former Yugoslavia prepared by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights (A/47/418-S/24516 of 3 September 1992; A/47/635-S/24766 of 6 November 1992);

(b) Report of the Secretary-General of 21 July 1992 on the situation in Bosnia and Herzegovina (S/24333);

(c) Report of the Secretary-General of 10 September 1992 on the situation in Bosnia and Herzegovina (S/24540);

(d) Reports of the Secretary-General of 28 September 1992 and 24 November 1992 pursuant to Security Council resolution 743 (1992) (S/24600 and S/24848);

(e) Report of the Secretary-General of 12 October 1992 on the establishment of the Commission of Experts pursuant to paragraph 2 of Security Council resolution 780 (1992) (S/24657);

(f) Report of the Secretary-General of 5 November 1992 pursuant to Security Council resolution 781 (1992) (S/24767);

(g) Report of the Secretary-General of 11 November 1992 on the International Conference on the Former Yugoslavia (S/24795).

II. CESSATION OF HOSTILITIES

3. As the Secretary-General stated in his report of 11 November 1992 on the International Conference on the Former Yugoslavia (S/24795), discussions relating to the cessation of hostilities have taken place within the International Conference's Working Group on Bosnia and Herzegovina. Those discussions led to an agreement, announced on 30 September 1992, that military commanders and local authorities of the three sides would meet in a Mixed

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Military Working Group under the auspices of the United Nations Protection Force (UNPROFOR) and the International Conference to work towards the demilitarization of Sarajevo and a cessation of hostilities in the city.

4. The representatives of the three sides, meeting in the Mixed Military Working Group, agreed to and signed, on 10 November 1992, a cease-fire for all of Bosnia and Herzegovina effective at midnight on 11 November 1992. The Co-Chairmen of the International Conference welcomed the unconditional cease-fire and stated that the international community expected all three sides to live up to their commitment.

5. By its resolution 787 (1992) of 16 November 1992, the Security Council called upon all parties in the Republic of Bosnia and Herzegovina to fulfil their commitments to put into effect an immediate cessation of hostilities and to negotiate in the Mixed Military Working Group, continuously and in uninterrupted session, to end the blockades of Sarajevo and other towns and to demilitarize them, with heavy weapons to be placed under international supervision.

6. Information on the interdiction of military flights over Bosnia and Herzegovina is contained in the further report of the Secretary-General of 24 November 1992, pursuant to Security Council resolution 743 (1992) (S/24848).

III. PEACEFUL SOLUTION TO THE CONFLICT

7. The Secretary-General's recent report on the activities of the International Conference on the Former Yugoslavia (S/24795) provided extensive information on the efforts being pursued within the Conference to promote a peaceful solution to the conflict in Bosnia and Herzegovina. In particular it reported that the Co-Chairmen of the Steering Committee of the International Conference had recently submitted to the parties a draft outline constitution for Bosnia and Herzegovina (S/24795, annex VII).

8. By its resolution 787 (1992) of 16 November 1992, the Security Council called upon the parties in the Republic of Bosnia and Herzegovina to consider the draft outline constitution as a basis for negotiating a political settlement of the conflict in that country and to continue negotiations for constitutional arrangements on the basis of the draft outline, under the auspices of the Co-Chairmen of the Steering Committee, those negotiations to be held in continuous and uninterrupted session.

IV. WITHDRAWAL OF FOREIGN FORCES

9. In its resolution 46/242, the General Assembly demanded that those units of the Yugoslav People's Army (JNA) and elements of the Croatian Army in Bosnia and Herzegovina must either be withdrawn, or be subject to the authority of the Government of Bosnia and Herzegovina, or be disbanded and disarmed with their weapons placed under effective international monitoring.

The Assembly also requested the Secretary-General to consider what kind of international assistance could be provided in that connection.

10. This provision of the resolution has not so far been fulfilled. While, since the adoption of the General Assembly resolution, UNPROFOR has so far been deployed only in Sarajevo and Bihac, it has received credible reports of extensive involvement of forces of the Croatian Army in Bosnia and Herzegovina. The Bosnian Serb forces allegedly continue to receive supplies and support from elements in the Federal Republic of Yugoslavia (Serbia and Montenegro). There are also journalistic accounts of foreign nationals fighting alongside Muslim and Croat forces. UNPROFOR is currently deploying throughout the Republic of Bosnia and Herzegovina to protect humanitarian convoys.

11. Though JNA has withdrawn completely from Bosnia and Herzegovina, former members of Bosnian Serb origin have been left behind with their equipment, and constitute the Army of the "Serb Republic". Several brigades of the Croatian Army are also reliably reported to be actively engaged in the conflict. This provision of the General Assembly resolution also therefore appears not to have been fulfilled. The Secretary-General continues to use his good offices through the International Conference on the Former Yugoslavia, as well as through UNPROFOR, to bring an end to this tragic conflict.

V. ACTION BY THE SECURITY COUNCIL

12. In its resolution 46/242 the General Assembly urged the Security Council to consider, on an urgent basis, taking further appropriate measures, as provided in Chapter VII of the Charter of the United Nations to put an end to the fighting and to restore the unity and the territorial integrity of the Republic of Bosnia and Herzegovina.

13. Since the adoption of General Assembly resolution 46/242, the Security Council has adopted several resolutions on the situation in the former Yugoslavia. The latest resolution adopted by the Security Council, resolution 787 (1992) of 16 November 1992, strongly reaffirmed the Council's call on all parties and others concerned to respect strictly the territorial integrity of the Republic of Bosnia and Herzegovina, and affirmed that any entities unilaterally declared or arrangements imposed in contravention thereof would not be acceptable. The Council condemned the refusal of all parties in the Republic of Bosnia and Herzegovina, in particular the Bosnian Serb paramilitary forces, to comply with its previous resolutions, and demanded that they and all other concerned parties in the former Yugoslavia fulfil immediately their obligations under those resolutions.

14. In the same resolution, the Council demanded that all forms of interference from outside the Republic of Bosnia and Herzegovina, including infiltration into the country of irregular units and personnel, cease immediately, and reaffirmed its determination to take measures against all parties and others concerned which fail to fulfil the requirements of

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resolution 752 (1992) and its other relevant resolutions, including the requirement that all forces, in particular elements of the Croatian army, be withdrawn, or be subject to the authority of the Government of the Republic of Bosnia and Herzegovina, or be disbanded or disarmed.

15. The Council also decided, acting under Chapter VII of the Charter, in order to ensure that commodities and products transshipped through the Federal Republic of Yugoslavia (Serbia and Montenegro) are not diverted in violation of resolution 757 (1992), to prohibit the transshipment of crude oil, petroleum products, coal, energy-related equipment, iron, steel, other metals, chemicals, rubber, tyres, vehicles, aircraft and motors of all types unless such transshipment was specifically authorized on a case-by-case basis by the Committee established by resolution 724 (1991) under its no-objection procedure.

16. It further decided, acting under Chapter VII of the Charter, that any vessel in which a majority or controlling interest was held by a person or undertaking in or operating from the Federal Republic of Yugoslavia (Serbia and Montenegro) should be considered, for the purpose of implementation of the relevant resolutions of the Security Council, a vessel of the Federal Republic of Yugoslavia (Serbia and Montenegro) regardless of the flag under which the vessel sailed. The Council called upon all States to take all necessary steps to ensure that none of their exports were diverted to the Federal Republic of Yugoslavia (Serbia and Montenegro) in violation of resolution 757 (1992).

17. Acting under Chapters VII and VIII of the Charter, the Council called upon States, acting nationally or through regional agencies or arrangements, to use such measures commensurate with the specific circumstances as might be necessary under the authority of the Security Council to halt all inward and outward maritime shipping in order to inspect and verify their cargoes and destinations and to ensure strict implementation of the provisions of resolutions 713 (1991) and 757 (1992).

18. The Security Council considered that, in order to facilitate the implementation of its relevant resolutions, observers should be deployed on the borders of the Republic of Bosnia and Herzegovina, and requested the Secretary-General to present to the Council as soon as possible his recommendations on the matter. The Council decided to remain actively seized of the matter until a peaceful solution was achieved.

VI. VIOLATIONS OF HUMAN RIGHTS AND HUMANITARIAN LAW

19. In its resolution 46/242, the General Assembly condemned the massive violations of human rights and international humanitarian law, in particular the abhorrent practice of "ethnic cleansing", and demanded that that practice be brought to an end immediately and that further steps be taken, on an urgent basis, to stop the massive and forcible displacement of population from and within the Republic of Bosnia and Herzegovina, as well as all other forms of violation of human rights in the former Yugoslavia. The Assembly affirmed

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that States were to be held accountable for violations of human rights which their agents committed upon the territory of another State and called upon all States and international organizations not to recognize the consequence of the acquisition of territory by force and of the abhorrent practice of "ethnic cleansing".

20. In the same resolution, the General Assembly demanded that the International Committee of the Red Cross (ICRC) be granted immediate, unimpeded and continued access to all camps, prisons and other places of detention within the territory of the former Yugoslavia and that all parties ensure complete safety and freedom of movement for ICRC and otherwise facilitate such access. The Assembly also demanded the safe, unconditional and honourable repatriation of the refugees and deportees to their homes in Bosnia and Herzegovina and recognized their right to receive reparation for their losses. It called upon organs of the United Nations and all international relief agencies to facilitate the return of the displaced people to their homes in the Republic of Bosnia and Herzegovina, as well as their rehabilitation.

21. The General Assembly urged all States to support the ongoing efforts to be taken in accordance with the relevant Security Council resolutions to facilitate the delivery of humanitarian assistance to all parts of the Republic of Bosnia and Herzegovina.

22. At its forty-seventh session, the General Assembly has before it the reports on the situation of human rights in the former Yugoslavia prepared by the Special Rapporteur of the Commission on Human Rights (A/47/418-S/24516 and A/47/635-S/24766). The Special Rapporteur has concluded that "massive and grave violations of human rights are occurring throughout the territory of Bosnia and Herzegovina" and that "human rights violations are being perpetrated by all parties to the conflicts. There are also victims on all sides. However, the situation of the Muslim population is particularly tragic: they feel that they are threatened with extermination". The Special Rapporteur saw "an urgent need for immediate concerted action. Even when peace is achieved, serious violations of human rights are likely to continue due to the intensity of mutual distrust and hatred" (A/47/418-S/24516, paras. 51, 52 and 57). The Special Rapporteur has submitted various recommendations for dealing with this situation (ibid., paras. 58-73; A/47/635-S/24766, para. 25).

23. On 13 August 1992, the Security Council, by resolution 771 (1992), reaffirmed that "all parties to the conflict are bound to comply with their obligations under international humanitarian law and in particular the Geneva Conventions of 12 August 1949, and that persons who commit or order the commission of grave breaches of the Conventions are individually responsible in respect of such breaches". The Council also called upon States and international humanitarian organizations to collate substantiated information in their possession or submitted to them relating to the violations of humanitarian law, including grave breaches of the Geneva Conventions, being committed in the territory of the former Yugoslavia, including Bosnia and Herzegovina, and to make that information available to the Council.

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24. In the same resolution, the Security Council requested the Secretary-General to collate the information submitted to the Council and to submit a report to it summarizing the information and recommending additional measures that might be appropriate in response to the information.

25. On 6 October 1992, the Security Council adopted resolution 780 (1992), in which it requested the Secretary-General to establish, as a matter of urgency, an impartial Commission of Experts to examine and analyse the information submitted pursuant to resolutions 771 (1992) and 780 (1992), together with such further information as the Commission of Experts might obtain through its own investigations or efforts, of other persons or bodies pursuant to resolution 771 (1992), with a view to providing the Secretary-General with its conclusions on the evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia.

26. On 23 October 1992, the Secretary-General informed the Security Council that he had appointed the following five persons to the Commission of Experts: Professor Fritz Kalshoven (Netherlands) as President; Professor Cherif Bassiouni (Egypt); Mr. William Fenrick (Canada); Judge Keba Mbaye (Senegal); and Professor Torker Opsahl (Norway) as members.

27. The Commission of Experts held its first two-day meeting on 4 and 5 November 1992 during which it discussed organizational and procedural concerns and began dealing with methodological and substantive issues. The Commission met with Secretary-General Boutros Boutros-Ghali and with Ambassador Hans Corell of Sweden, a member of the Conference on Security and Cooperation in Europe (CSCE) Mission under the Moscow Human Dimension Mechanism. It also reviewed the report and recommendations of that Mission.

28. The Commission has decided to undertake a factual analysis of existing reports as well as a legal analysis of applicable law. It is in the process of identifying practical problems inherent in the identification and eventual investigation of alleged incidents.

29. The Commission has before it all available communications regarding such alleged violations, including information received from various Governments. Information has also been received from United Nations sources, including the Special Rapporteur of the Commission on Human Rights, as well as from the International Conference on the Former Yugoslavia, CSCE and a number of non-governmental organizations, including Helsinki Watch, the World Campaign to Save Humanity and Amnesty International.

VII. RELEASE OF PRISONERS AND DETAINEES

30. ICRC and the Office of the United Nations High Commissioner for Refugees (UNHCR) have continued their efforts to facilitate the release of prisoners and detainees. Between 7 July and 31 October 1992 ICRC had registered 10,273 persons in 41 places of detention. Some 8,046 were in 14 Bosnian Serb places

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of detention and 988 were in 16 Bosnian Croat places of detention; 1,239 were in 11 places of detention run by the Government of Bosnia and Herzegovina.

31. As at 18 November 1992 only 2,928 prisoners and detainees had been released. Of these, 2,841 had been transferred to neighbouring countries and 87 had expressed the wish to be released on the spot. On 1 October, the three sides concluded an agreement under ICRC auspices on the release and transfer of all prisoners according to plans of release to be prepared by ICRC and implemented by the three sides by 31 October. That agreement was based on the Programme of Action on Humanitarian Issues drawn up at the London session of the International Conference. According to figures provided by ICRC, the Bosnian Serbs had released about 2,550 prisoners and detainees. The Bosnian Croats had released about 350 prisoners and detainees. The Government of Bosnia and Herzegovina had released 26 prisoners and detainees. ICRC is currently visiting 312 prisoners and detainees under Bosnian Croat control; 989 prisoners and detainees under the control of the Government of Bosnia and Herzegovina; and 4,103 prisoners and detainees under Bosnian Serb control.

32. ICRC estimates that there are still a considerable number of prisoners who have not been visited at all, either because they have never been notified, or they are detained in dangerous areas or elsewhere, where access has been refused by the authorities. According to ICRC, the agreement of 1 October has not been implemented because the three sides did not fully respect their obligations under that agreement, but mostly also because of difficulties in finding third countries willing to accept the prisoners wishing to be transferred temporarily to neighbouring countries.

33. As at 18 November 1992, 3,699 places had been offered for temporary refuge abroad but only 818 released prisoners and detainees had departed for third countries. The number of places offered was still not sufficient to provide a solution for the thousands of other detainees still to be released and for whom a viable solution was not considered available inside Bosnia and Herzegovina.

VIII. HUMANITARIAN ASSISTANCE

34. In the light of General Assembly resolution 46/242, and as a follow-up to the International Meeting on Humanitarian Assistance to Victims of the Conflict in the Former Yugoslavia, convened under the auspices of UNHCR on 29 July 1992, an inter-agency assessment of the humanitarian needs was carried out by the Department of Humanitarian Affairs of UNHCR, the United Nations Children's Fund (UNICEF), the World Food Programme (WFP) and the World Health Organization (WHO). This led to the launching, on 4 September 1992, of a Consolidated Inter-Agency Programme of Action and Appeal for Former Yugoslavia for the period from September 1992 to March 1993.

35. The Consolidated Appeal was formally launched on behalf of the Secretary-General simultaneously in Geneva and New York. The Programme of Action and Appeal covered the most urgent humanitarian needs in food, shelter and medical supplies and services at a cost of 434 million United States dollars. The Programme of Action was designed specifically to address the

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winter situation in all Republics of the former Yugoslavia, but special emphasis was placed on Bosnia and Herzegovina, where needs were considered more acute because of the ongoing hostilities.

36. Since the launching of the Programme of Action and Appeal, the number of affected persons in need of humanitarian assistance has since increased significantly. UNHCR's estimate as at 18 November 1992 was that there was a total of 3,042,000 refugees, displaced persons and other victims of the conflict in the former Yugoslavia requiring assistance and protection. Information on the activities of UNHCR to provide protection and assistance for these refugees and displaced persons is contained in the report of the Secretary-General to the Security Council on the International Conference on the Former Yugoslavia (S/24795).

37. While the programmes and activities of UNHCR have received almost all of the required funding based on the initial assessment, it is now envisaged that its increased needs will call for additional funding of over \$100 million. The response to the appeal for funding for the other operational agencies had been markedly lower and thus substantial shortfalls remain in the funding of programmes and activities proposed by UNICEF, WFP and WHO.

38. It should be noted that substantial humanitarian activities have been carried out outside the Consolidated Appeal by donor Governments, intergovernmental organizations and non-governmental organizations, including ICRC.

39. On 13 August 1992, the Security Council, acting under Chapter VII of the Charter of the United Nations, adopted resolution 770 (1992) by which it called upon States to take nationally or through regional agencies or arrangements all measures necessary to facilitate in coordination with the United Nations the delivery by relevant United Nations humanitarian organizations and others of humanitarian assistance to Sarajevo and wherever needed in other parts of Bosnia and Herzegovina; it also called upon States to report to the Secretary-General on measures they were taking in coordination with the United Nations to carry out the resolution and invited the Secretary-General to keep under continuous review any further measures that might be necessary to ensure unimpeded delivery of humanitarian supplies.

40. Following the adoption of Security Council resolution 770 (1992), a number of the sponsors of that resolution suggested to the Secretary-General how the delivery of humanitarian assistance to Sarajevo and other parts of Bosnia and Herzegovina could be facilitated through the provision of protective support by UNPROFOR and at no cost to the United Nations. In response, the Secretary-General proposed the establishment of regional storage and distribution centres at a number of locations in Bosnia and Herzegovina. He also proposed that UNPROFOR would, when so requested by UNHCR, provide protection of convoys to UNHCR regional centres and from there to local distribution points (see S/24540).

41. On 14 September 1992, the Security Council adopted resolution 776 (1992), by which it authorized enlargements of UNPROFOR's mandate and strength in Bosnia and Herzegovina to provide, inter alia, protection of humanitarian convoys, including convoys of released detainees if requested by ICRC. The Secretary-General has reported on UNPROFOR's deployment in Bosnia and Herzegovina and its activities to facilitate the delivery of humanitarian assistance in his report of 24 November 1992 to the Security Council (S/24848). The full deployment of UNPROFOR's additional troops is important, as indiscriminate fighting, targeted harassment and hostile attitudes have continued to hamper the humanitarian relief efforts.

42. By its resolution 787 (1992) of 16 November 1992, the Security Council called upon all international donors to contribute to the humanitarian relief efforts in the former Yugoslavia, to support the United Nations Consolidated Inter-Agency Programme of Action and Appeal for the Former Yugoslavia and to speed up the delivery of assistance under existing pledges. The Council called upon all parties and others concerned to cooperate fully with the humanitarian agencies and with UNPROFOR to ensure the safe delivery of humanitarian assistance to those in need of it, and reiterated its demand that all parties and others concerned take the necessary measures to ensure the safety of United Nations and other personnel engaged in the delivery of humanitarian assistance.

43. In the same resolution, the Security Council invited the Secretary-General, in consultation with UNHCR and other relevant international humanitarian agencies, to study the possibility of and the requirements for the promotion of safe areas for humanitarian purposes.
